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## OLR Bill Analysis

### sSB 312

#### ***AN ACT CONCERNING A LONG ISLAND SOUND RESOURCE AND USE INVENTORY AND A LONG ISLAND SOUND BLUE PLAN.***

#### **SUMMARY:**

This bill requires the Office of Policy and Management (OPM) secretary, within available resources, to:

1. coordinate completing an inventory of Long Island Sound's uses and natural resources (the "Long Island Sound Resource and Use Inventory") and
2. develop a plan to preserve and protect the Sound that may include, maps, illustrations, and other media (the "Long Island Sound Blue Plan").

The secretary must do these things in conjunction with a Long Island Sound Resource and Use Inventory and Blue Plan Advisory Committee the bill creates.

The bill establishes a process for developing the inventory and plan, including provisions for public review and comment. The draft inventory and plan must be completed by July 1, 2017 and the public must have at least 90 days to review and comment on it. The secretary must adopt a final draft within 90 days after the public comment period ends. Once final, the bill requires the inventory and plan to be (1) reviewed by the Environment Committee and (2) submitted to the General Assembly for a vote. The bill requires the inventory and plan to be updated every five years.

Under the bill, the plan's policies, locations, or standards must apply in a spatial planning area as depicted on a map the advisory committee prepares. The plan must be a factor for the Department of Energy and Environmental Protection (DEEP) or other state agencies

to consider when reviewing applications to conduct certain coastal activities.

Lastly, the bill allows the secretary to accept, on the state's behalf, gifts, grants, donations, or bequests to help complete the inventory and develop the plan.

EFFECTIVE DATE: October 1, 2014

### **USE OF THE INVENTORY AND PLAN**

Under the bill, once the inventory and plan are approved as described below, the plan must be considered when reviewing applications for:

1. electric power line, gas pipeline, or telecommunications crossings of Long Island Sound or
2. dredging, erecting structures, placing fill, obstructions, or encroachments, or conducting work related to these activities, in tidal, coastal, or navigable waters waterward of the coastal jurisdiction line.

It allows the plan to be used for guidance in pre-application discussions between applicants and the DEEP commissioner.

The bill also requires the commissioner to seek federal approval needed to incorporate the plan as an enforceable policy in the state's coastal management program under the federal Coastal Zone Management Act.

### **LONG ISLAND SOUND RESOURCE AND USE INVENTORY**

Under the bill, the inventory must be comprised of the best available information and data on Long Island Sound's natural resources and uses, including all of its:

1. plants, animals, and habitats;
2. ecologically significant areas in nearshore and offshore waters and their substrates (surfaces where organisms grow);

3. uses of the waters and substrates such as (a) boating and fishing, (b) shellfish beds, (c) aquaculture and energy facilities, (d) shipping corridors, and (e) electric power line, gas pipeline, and telecommunications crossings; and
4. updates and additions to the comprehensive environmental assessment and plan on Long Island Sound crossings (such as pipelines).

## **LONG ISLAND SOUND BLUE PLAN**

### ***Purposes***

The bill requires the plan to:

1. establish the state's goals, siting priorities, and standards for effective stewardship of the Sound's waters held in trust for public benefit;
2. promote science-based management practices that consider existing natural, social, cultural, historic, and economic characteristics of planning areas within the sound;
3. preserve and protect traditional riparian and water-dependent uses and activities;
4. promote maximum public access to the Sound's waters for traditional public trust uses, such as boating and fishing, unless it is a national security interest or it is necessary to (a) protect coastal resources or (b) preserve public health, safety, and welfare;
5. reflect the Sound's waters' importance to state residents who make a living from or enjoy recreational boating or fishing;
6. analyze the implications of existing and potential uses and users of the Sound, focusing on avoiding conflicts;
7. reflect the value of biodiversity and ecosystem health, in regard to ecosystem interdependence;

8. identify and protect special, sensitive, or unique estuarine and marine life and habitats such as scenic and visual resources;
9. adapt to evolving knowledge and understanding of the marine environment, including climate change and sea level rise adaptation;
10. foster sustainable uses that capitalize on economic opportunity without significant detriment to the Sound's ecology or natural beauty;
11. support infrastructure that is needed to sustain the state's economy and quality of life; and
12. identify appropriate locations and performance standards for activities, uses, and facilities regulated under state permit programs, such as measures to guide siting uses in a way that is consistent with the plan.

Under the bill, the plan must be based on the inventory described above and provide for ongoing acquisition and application of up-to-date resource and use data, including seafloor mapping. It must be consistent with the State's Plan of Conservation and Development and the goals and policies contained in the state's Coastal Management Act.

The bill specifies that the plan be developed by a transparent and inclusive process that seeks widespread public and stakeholder participation and encourages public input in decision making. It must be coordinated, developed, and implemented with New York, to the greatest extent possible. The plan must also be coordinated with local, regional, and federal planning entities and agencies such as the (1) Long Island Sound Study and (2) National Ocean Policy's Northeast Regional Planning Body (see BACKGROUND).

#### ***Areas Subject to the Plan***

***Waters and Submerged Lands.*** The waters and submerged lands subject to the secretary's planning, management, and coordination

authority under the plan include:

1. Long Island Sound and
2. its bays and inlets from the mean high water line to the state's waterward boundaries with New York and Rhode Island.

The bill specifies that the high water line is defined by the most recent data of the National Oceanic and Atmospheric Administration.

***Spatial Planning Area.*** The bill requires the advisory committee (see below) to prepare a map showing a spatial planning area where the plan's siting policies, location identifications, or performance standards for activities or facilities must apply. The bill specifies that the area is located seaward of the bathymetric contour of minus ten feet North American Vertical Datum (10 feet under sea level) to the state's waterward boundaries with New York and Rhode Island.

## **PUBLIC INVOLVEMENT AND COMMENTS**

### ***Developing the Draft Inventory and Plan***

To help the secretary develop the inventory and plan, the bill requires the committee to hold at least three public hearings in different coastal municipalities for receiving public comments and submissions. It allows the committee to provide other public outreach and input measures to ensure stakeholder engagement and representation.

While drafting the inventory and plan, but before they are available for public comment, the committee must consult with representatives from:

1. the telecommunications industry,
2. coastal municipalities,
3. waterfront businesses,
4. a tribal nation,

5. the shellfish and commercial fin fishing industries,
6. the tourism or recreation industry, and
7. an organization involved with coastal or marine hunting.

### ***After Draft Completion***

Once the draft inventory and plan are completed, the bill requires the secretary to post them on DEEP's and OPM's websites for the public for review and comment on for at least 90 days. He must also publish notice of them in at least five general circulation newspapers, the *Environmental Monitor*, the *Connecticut Law Journal*, and on DEEP's and OPM's websites.

The secretary must adopt a final draft within 90 days after the public comment period ends.

### **GENERAL ASSEMBLY REVIEW**

Under the bill, once a final draft of the inventory and plan are completed, they must be submitted to the Environment Committee for review. The committee must then submit the inventory and plan, with its recommendation for approval or disapproval, to the General Assembly within 45 days after the start of the legislative session following receipt of the inventory and plan.

The inventory and plan take effect when approved by a majority vote of each chamber of the General Assembly. If the General Assembly disapproves the inventory and plan, in whole or part, they are deemed rejected and must return to the advisory committee for revisions.

The bill requires revisions to the inventory and plan to be submitted to the Environment Committee and approved by the General Assembly, following the same procedure as described above. The secretary and DEEP commissioner are responsible for the review and update to the inventory and plan, which must occur at least once every five years.

## **PUBLIC OUTREACH PROGRAM**

The bill requires the secretary and DEEP commissioner to develop and implement a public outreach and information program to inform the public about the plan. It also requires the advisory committee to hold at least one public hearing each year to receive public comments and submissions on the inventory and plan. The program and hearing must be accomplished within available resources.

## **ADVISORY COMMITTEE**

### ***Membership***

Under the bill, the Long Island Sound Resource and Use Inventory and Blue Plan Advisory Committee includes the DEEP and economic development commissioners, or their designees, and the following 10 members appointed by the governor:

1. one representative each from the transportation department's marine affairs office and the agriculture department's aquaculture bureau;
2. a Connecticut Siting Council representative;
3. someone from a marine-related program at UConn;
4. a representative from the recreational fishing and hunting community;
5. a representative of a conservation organization that specializes in coastal issues;
6. a representative from a nonprofit with expertise in marine assessments and planning; and
7. one representative each from the marine trades, gas and electric distribution, and commercial shellfish and finfish industries.

Each appointed member serves at the governor's pleasure. Under the bill, the OPM secretary serves as the committee's chairperson, but it does not include him among the list of committee members. The bill requires him to convene the first meeting by November 30, 2014 and it

allows him to ask members to help with administrative functions such as convening and noticing meetings and drafting assessments and reports.

The bill places the committee in OPM for administrative purposes only. Thus, it makes OPM responsible for, among other things, providing administrative and clerical functions for the committee to the extent the secretary considers it necessary.

### ***Committee Responsibilities***

In addition to helping the secretary develop the draft inventory and plan, the bill requires the committee to advise the secretary on operating, implementing, and updating the inventory and plan within six months after the General Assembly's approval. It must also meet quarterly to review the plan's implementation, identify emerging issues, and recommend any needed or desirable changes to the plan.

## **BACKGROUND**

### ***Long Island Sound Study***

In 1985, in an effort to better protect Long Island Sound, the federal Environmental Protection Agency, Connecticut, and New York formed the Long Island Sound Study, a bi-state partnership consisting of federal and state agencies, user groups, organizations, and individuals seeking to restore and protect the Sound.

### ***National Ocean Policy's Northeast Regional Planning Body***

Formed by a presidential Executive Order in 2010, the National Ocean Policy was established to help manage the country's oceans and coasts. The policy encourages a science-based spatial planning process to analyze current and future uses of ocean, coastal, and Great Lakes areas. The approach is executed through regional planning bodies. Members of the Northeast Regional Planning Body include federal, tribal, state, and New England Fishery Management Council representatives.

## **COMMITTEE ACTION**

Environment Committee



Joint Favorable Substitute

Yea     27     Nay   1     (03/21/2014)